

APPEAL NO. 040376
FILED APRIL 7, 2004

This appeal arises pursuant to the Texas Workers' Compensation Act, TEX. LAB. CODE ANN. § 401.001 *et seq.* (1989 Act). A contested case hearing was held on January 22, 2004. The hearing officer determined that the appellant (claimant) reached maximum medical improvement (MMI) on May 8, 2003, with a 9% impairment rating (IR) as certified by the Texas Workers' Compensation Commission (Commission)-appointed designated doctor. The claimant appealed on sufficiency of the evidence grounds, and the respondent (carrier) responded, urging affirmance.

DECISION

Affirmed.

The claimant contends that the great weight of the other medical evidence is contrary to the certification of the designated doctor because at the time it was made, the claimant had not yet completed work hardening. The designated doctor was sent a copy of a letter from the claimant's treating doctor indicating that the claimant had not completed work hardening as of the date of the designated doctor's examination, and asked whether that fact would change his certification. The designated doctor responded that it did not.

Sections 408.122(c) and 408.125(c) provide that the report of the designated doctor shall have presumptive weight and the Commission shall base the IR and MMI on that report unless the great weight of the other medical evidence is to the contrary. Whether or not the great weight of the other medical records overcomes the presumption that the designated doctor's certification is correct is a question of fact for the hearing officer to resolve. In the instant case, the hearing officer found that the presumptive weight afforded the opinion of the Commission-appointed designated doctor is not overcome by the great weight of the other medical evidence. Nothing in our review of the record indicates that this determination is so against the great weight and preponderance of the evidence as to be clearly wrong or manifestly unjust. Cain v. Bain, 709 S.W.2d 175, 176 (Tex. 1986); Pool v. Ford Motor Company, 715 S.W.2d 629, 635 (Tex. 1986).

The hearing officer's decision and order are affirmed.

The true corporate name of the insurance carrier is **EMPLOYERS MUTUAL CASUALTY COMPANY** and the name and address of its registered agent for service of process is

**HOWARD ORLA DUGGER
1702 NORTH COLLINS BOULEVARD, SUITE 200
RICHARDSON, TEXAS 75080.**

Daniel R. Barry
Appeals Judge

CONCUR:

Judy L. S. Barnes
Appeals Judge

Thomas A. Knapp
Appeals Judge